

Maine Revised Statutes
Title 13-C: MAINE BUSINESS CORPORATION ACT
HEADING: PL 2001, c. 640, Pt. A, §2 (new); Pt. B, §7 (aff)

Chapter 8: DIRECTORS AND OFFICERS HEADING:
PL 2001, c. 640, Pt. A, §2 (new); Pt. B, §7 (aff)

§881. BUSINESS OPPORTUNITIES

1. Business opportunity not actionable if standards met. A director's taking advantage, directly or indirectly, of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if before becoming legally obligated regarding the opportunity the director brings it to the attention of the corporation and:

A. Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 873, as if the decision being made concerned a director's conflicting-interest transaction as defined in section 871, subsection 2; or [2007, c. 289, §31 (NEW) .]

B. Action by shareholders disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 874, as if the decision being made concerned a director's conflicting-interest transaction as defined in section 871, subsection 2. [2007, c. 289, §31 (NEW) .]

In each case, the director, rather than making a required disclosure as defined in section 871, subsection 4, must have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

[2007, c. 289, §31 (NEW) .]

2. No inference or change in burden of proof. In any proceeding seeking equitable relief or other remedies based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection 1 before taking advantage of the opportunity does not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

[2007, c. 289, §31 (NEW) .]

SECTION HISTORY

2007, c. 289, §31 (NEW) .

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